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March 18, 1996

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, DC. 20554

Via Messenger

Re: **Future Development of Paging Systems**
WT Docket No. 96-18; PP Docket No. 93-253
Comments of Rule Radiophone Service, Inc. and
Robert R. Rule d/b/a Rule Communications

Dear Mr. Caton:

Transmitted herewith is the original and nine copies of the Comments of Rule Radiophone Service, Inc. and Robert R. Rule d/b/a Rule Communications on the above-captioned NPRM.

Kindly contact my office directly with any questions or comments regarding the attached.

Respectfully submitted,

/s/ Robert R. Rule

Rule Radiophone Service, Inc.
and Robert R. Rule d/b/a
Rule Communications

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Revision of Part 22 and Part 90 of the	)	**WT Docket No. 96-18**
Commission's Rules to Facilitate Future	)	
Development of Paging Systems	)	
	)	
Implementation of Section 309(j) of the	)	**PP Docket No. 93-253**
Communications Act -- Competitive Bidding	)	

To: The Commission

COMMENTS OF RULE RADIOPHONE SERVICE, INC.
and
ROBERT R. RULE d/b/a RULE COMMUNICATIONS

RULE RADIOPHONE SERVICE, INC. and
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SUMMARY OF COMMENTS

I have been providing paging service in Wyoming since 1976 when I founded my family-owned (Mom-and-Pop) local paging business. Mom-and-Pop paging companies continue to serve the public interest by providing paging and mobile-telephone service to smaller markets which larger companies ignore.

The FCC's proposal to use geographic licensing for paging channels on a MTA basis will hinder Mom-and-Pop paging companies in improving their service. We likely will be out-spent at an auction by both national paging companies who don't care about rural markets and by speculators who are prepared to buy licenses for reasons unrelated to public service.

The auction proposal will prevent most paging companies from continuing to provide coverage. Except in the very largest markets, coverage gaps will cripple the ability of incumbents to modify their systems as their customers demand. And yet, interference considerations will prevent auction winners from serving those customers, either.

The Part 22 150 MHz and 450 MHz two-way channels should not be subject to an auction. The existing licenses are too fragmented to permit an auction winner to provide wide-area service. Auctioning single channels over large areas is inconsistent with two-way usage. These channels are necessary for providing two-way service in rural America, both for BETRS and for conventional mobile-phone service.

Incumbent licensees should have reasonable expansion rights following an auction. If this is not done, a major economic benefit to an auction winner is the right to hold existing licensees hostage. Expansions of 25 miles should be permitted in urban areas, and up to 100 miles in rural areas. Additionally, incumbents should have expansion rights onto areas left unserved by the auction winner.

The Commission should permit incumbents to file applications which were in preparation when the freeze was retroactively announced.

Smaller markets should not be auctioned last, as has been done with broadband and narrowband PCS. This encourages speculation, and makes it difficult for incumbents to acquire rights to their channels. To the contrary, incumbents should have a preference to acquire their existing channels in their existing service areas.

Before the
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Revision of Part 22 and Part 90 of the Commission's Rules to Facilitate Future Development of Paging Systems	)	**WT Docket No. 96-18**
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To: The Commission

COMMENTS OF RULE RADIOPHONE SERVICE, INC.
and
ROBERT R. RULE d/b/a RULE COMMUNICATIONS

Rule Radiophone Service, Inc. ("RRSI") and its sole owner Robert R. Rule d/b/a Rule Communications (collectively "Rule"), pursuant to Section 1.415 of the Commission's Rules, hereby respectfully comment on the Commission's proposal to adopt auction licensing rules for commercial paging services.[1/]

BACKGROUND ON ROBERT R. RULE

I have been self employed as a sole proprietor since 1967, and have operated FCC Part 22 Radio Common Carrier systems in the Washington, DC area since 1988, and presently hold construction permits for FCC Part 22 Radio Common Carrier ("RCC") systems in northern Colorado. I am also president and 100% stockholder of Rule Radiophone Service, Inc., a Wyoming corporation, which has operated FCC Part 22 RCC systems within the state of Wyoming since 1976. As a result, both RRSI and I personally are parties of interest to these proceedings.

[1/] Future Development of Paging Systems, 11 FCC Rcd ___ (FCC 96-52, released February 9, 1996) (WT Docket No. 96-18, PP Docket No. 93-253) (Notice of Proposed Rulemaking) ("NPRM").

I grew up in Fairfax County, Virginia, and graduated from the University of Wyoming with the degree of Bachelor of Science in Electrical Engineering. At that time, I was a licensed amateur radio operator. Since moving to Wyoming as a college student, I have always lived in Wyoming. As a result, I have personal radio experience in both a major metropolitan area (Washington Metropolitan area) and also extremely sparsely populated rural America (Wyoming). This gives me a unique perspective in viewing and commenting on this proposed rulemaking.

My wife Karen and I currently live near Cheyenne, Wyoming, and actively manage RRSI, our family business. Because of the small size of the Rule business operations, and its family-owned and operated nature, RRSI indeed is truly a "Mom and Pop" business operation. Much of the comments which follow have to do with the struggles of the "Mom and Pop" companies, which founded the RCC industry a few decades ago.

HISTORICAL BACKGROUND OF RADIO PAGING

The NPRM starts out with interesting and useful historical information pertinent to the RCC industry, but having made a living in this industry for the past twenty years, I'd like to add some additional observations to the historical record.

In the beginning, the FCC divided portions of the 150 MHz and 450 MHz spectrum between the wireline telephone companies, and a new industry which came to be known as the RCC industry. Although the spectrum allocated to the telephone companies was used mostly by giant, publicly traded corporations, the spectrum allocated to the "non-wirelines" (the RCCs) was used mostly by family owned and operated businesses. It was these "Mom and Pop" operations that were responsible for bringing "car telephone service" to many portions of the nation where the big telephone companies did not see the potential to make a profit, and therefore, chose not to provide service. For example, I got

into the mobile telephone business in 1976 in Laramie, Wyoming. Although Laramie is the third largest city in Wyoming, with a population of around 25,000 people, at that time it had no car telephone service of any kind, no paging service, and no 24-hour telephone answering service. The local Bell Operating Company, Mountain Bell (now US West Communications), analyzed the Laramie market, and found no potential for making a profit with IMTS mobile telephone service, and as a result, chose to not provide any form of mobile telephone service to Laramie, Wyoming.

In the late 1960s, I constructed an automatic telephone patch ("autopatch") in Laramie for my amateur radio rig. I and the other ham radio operators amazed many business owners in Laramie by making telephone calls from our cars. As a result, I was constantly approached by business owners to set them up to use my autopatch. I couldn't do this, of course, since it was licensed in the Amateur Radio Service and could not be used for business purposes.

But this interest by Laramie business owners eventually led me to license and construct the first mobile telephone service to serve the public in Laramie, Wyoming, The service operated on 152.15 MHz, it began service to the public on June 15, 1976, and to this day, it continues to serve a multitude of customers in Southeast Wyoming.

But, in order to place my RCC service on the air, I had to spend a significant amount of time, energy, and money in obtaining the necessary permits. It took me considerable time to read the applicable FCC Rules (currently Part 22) cover-to-cover. It took me considerable time to obtain the required topographic maps, and plot the eight radials on graph paper and obtain the height above average terrain for each radial. And, it took me considerable time and expense to make application to the Wyoming Public Service Commission ("PSC"), and go through a Public Hearing, to obtain my state certificate to

provide this service. But, in order to provide "service for hire to the public", all of this was necessary.

Now, meanwhile, while I was trying to "do things right", another group of communications companies were emerging. Seeing how difficult it was to license an RCC mobile telephone and paging service, they figured out an easier way to do it. They simply applied for a "Business Radio Service" license (under what is now Part 90 of the Rules), which required no topographic map terrain studies, no PSC certificate, and no attorneys, and placed a 150 MHz or 450 MHz radio station on the air, and began service to the public just as if they were a true RCC. Never mind the fact that in the 1970s, service to the general public was strictly prohibited in the "Business Radio Service".

The next phase in this historical lesson was the coming of Cellular Mobile Telephone Service. By this time, many of the small "Mom and Pop" RCCs had gotten much bigger, and some of them had even started selling out to large, publicly traded corporations. But by and large, the RCC industry was still a "Mom and Pop" industry. And, it was the moms and pops that would get called at home at night at 3AM by the hospital emergency room, when system repairs were needed so that the physician on call could be paged. And, it was the moms and pops that expanded their service into small nearby towns in order to provide a service that the public urgently needed... although there were no profits to be seen in the foreseeable future.

But, the zinger came when the little "Mom and Pop" companies, who had brought mobile telephone service to their communities in the first place, who expected to upgrade their facilities from 150 MHz to 800 MHz, and install cellular switching equipment, learned that they would be unable to continue in their family business livelihood. You see, much to their surprise, they learned that the cellular licenses would be awarded through a lottery system, and not by the local PSC awarding the license to the applicant best qualified to

service each local community. So, with only one chance in hundreds (or thousands) to win the lottery, most little "Mom and Pop" mobile telephone services didn't even bother to file a cellular application for the home-town market. Instead, they simply did all that they could to increase their service areas, and provide the best personalized customer service available.

Well... cellular service did finally arrive in rural America. Interestingly, the winner of the lottery for Southeast Wyoming didn't even build its system... apparently because it didn't see any profit potential in serving miles and miles of jackrabbits and prairie dogs, which typically don't subscribe to mobile telephone service. As a result, the "2nd place winner" ended up building the non-wireline cellular service in Southeast Wyoming, delaying a choice in cellular service to the area by a couple of years.

Now, during conferences in which the FCC participated, the little "Mom and Pop" companies were assured that they would nevertheless be able to play in the cellular telephone game, because the FCC had required that the cellular companies offer "wholesale rates" to resellers. But, when I approached US West Cellular to become a reseller of their airtime, I quickly learned that its "wholesale rates" were actually higher than what US West Cellular sold the service to the general public. I complained to the Wyoming PSC but learned that all that was required was for the cellular companies to have "wholesale rates", and that nothing said they couldn't sell directly to the public at less than their "wholesale rates".

So, once again, the little "Mom and Pop" companies, trying to play by the rules and do things right, get another kick in the shorts.

So, to wrap this story up and brings things up to the present, the small RCCs are still out there, competing with the big cellular companies, but only serving a portion of their original customer base. Yet, I have seen many a customer coming back, having

become totally fed up with the heavy-handed treatment received from the big cellular companies, and ready to go back to the old-fashioned customer service which only a family-owned and operated business can provide.

So, true, the little "Mom and Pop" companies have taken a severe beating over the past decade. But, they are still providing manually dispatched and direct-dial 150 MHz and 450 MHz mobile-telephone service.[2/] But, the time has come when these little family owned businesses, the very ones which started and grew this industry, really, really, really, need a break!

ENTER GEOGRAPHIC LICENSING

If this was the 1940s, and the FCC was about to take applications for businesses wishing to enter the "Domestic Public Land Mobile Radio Service", it might make sense to divide the nation up into service areas, and seek applicants for service areas rather than individual antenna sites. But from a practical viewpoint, it's way, way too late to do this now in the 150 MHz and 450 MHz frequency bands. In almost all parts of the nation, multiple licensees exist in these bands almost everywhere, and to shift gears in mid stream is going to cause no end of unforeseen problems. As a starter, let's look at the impact on small family owned businesses.

[2/] Pages 4-7 of my Comments on the Interim Licensing Proposal in this proceeding (filed March 1, 1996) tells how two-way mobile telephone service is not only in existence but thriving in rural America.

SMALL BUSINESS OPERATIONS ARE NOT INTERESTED IN SERVING A SIX STATE REGION.

The FCC has proposed to use MTAs for paging auctions. In my case, my service areas in Wyoming and Colorado are in the Denver MTA, which covers large portions of six states. This is far too large for me and other Mom-and-Pop paging companies to consider.

In fact, most of them are not interested in serving a three state region unless (like my case) they just happen to have their headquarters near a point where three state lines come together. And, in that case, they certainly don't want to serve customers all across all of the three states.

True, the big companies are the ones interested in large service areas. A little "Mom and Pop" operation just doesn't have the capital, staff, or expertise to license, build, and operate paging transmitters from coast to coast. But, what the moms and pops do well is to serve their local areas. Unfortunately, the NPRM appears to be one more step toward handing the radio paging industry over to the giant publicly traded corporations, and putting additional pressure on the small, family owned, businesses to do something different, like set up a maid service or mow lawns or something. Licensing changes which assume that the public would be better served by a system of nothing but large corporations is just not a good idea.

Obviously, the public would be served best if both large, publicly traded, and also small, "Mom and Pop", service providers were out there, offering a wide range of choices in service. The "Big Boys" will certainly do best in providing service throughout a major portion of the country. But, the "Mom and Pop" operations will continue to provide the best service in rural area, and most often, will be the only service available in tiny communities.

You see, in rural Wyoming, you can easily drive for 40 miles and see no signs of human life, until you come to a little town with a population of 150 people, and then drive another 40 miles and see nothing! Perhaps only 20 of these people will ever want a pager, but there is no giant corporation on this planet that is going to set up a transmitter in a tiny town to see to it that these 20 people get service! But, a "Mom and Pop" company will do it, just because "it needs to be done". So, it is absolutely essential that any new rules adopted by the FCC assure that both large and small businesses may continue to survive, profit, and grow!

LET'S TAKE CHUGWATER, WYOMING, FOR EXAMPLE

My business office has received requests during the past several years for service in Chugwater, Wyoming, a tiny town (192 people) about 45 miles north of Cheyenne. When you drive from Cheyenne to Chugwater on Interstate 25, you see ABSOLUTELY NOTHING between these two cities! Since I presently have no transmitter in the Chugwater area, I would be prevented from ever serving this community in the future under the proposed rules. Prior to the recent licensing freeze, I was looking into obtaining an antenna site in or near Chugwater, in order to provide service to this community. But, if geographic licensing comes about in the 150 MHz and 450 MHz band, and a large corporation is the successful bidder for this territory on one of my frequencies, then Chugwater will just have to do without paging service... probably forever... because the big company won't find it to be profitable (based upon the inherent inefficiencies that a big corporation faces in setting up operations this far from home) to serve the 192 people that live in Chugwater, Wyoming.

SO WHY DON'T I GO GET THE GEOGRAPHIC LICENSE ON ONE OF MY FREQUENCIES FOR THE MTA THAT INCLUDES CHUGWATER, WYOMING?

Simple. Almost certainly, I won't be able to outbid the "Big Boys" with their deep pockets for the entire MTA that includes both Denver, Colorado, and Chugwater. Let's look at how these things always seem to work out.

Almost every month, I get called by a friend or business associate who has been approached by a "telephone boiler room" operation, offering my friend a once-in-a-lifetime opportunity to strike it rich by getting in on the ground floor and picking up a piece of an FCC license. The big surprise is that some well-known and respected business leaders in Cheyenne actually fall for these presumptive scams! So, once the "license mill" operator has a bunch of likely pigeons lined up who all invested tens of thousands of dollars each, this "shark" takes his bag of money, and goes to an FCC auction.

Now, the chances are excellent that the license mill won't have enough money to bid on a major market, so rather than send the money back to everyone who kicked in, the "shark" will stick around until he successfully bids on anything... and this normally means a small, rural market. Never mind the fact that his investors know absolutely nothing about the market conditions of the area in which they are about to "buy a license." Never mind the fact that the amount bid is so high that the investors will never see a return on their investment.

The point is, the telephone scam operator told them they will get a piece of an FCC license for their investment, and by golly, that is what they are going to get. Of course, the "shark" setting up the scam gets a percentage of everything invested, so he goes away fat and happy. Later, when those who put up the money figure out that things aren't going to fly, they get cold feet and start doing damage control. Bottom line, no small communities ever see service, and if this group doesn't end up losing their license

like the cellular group that originally won the non-wireline cellular license for Southeast Wyoming did, the best that can be expected is for a few of the larger cities to see a very minimal grade of service offered.

Bottom line: **There is simply no way that a "Mom and Pop" company can outbid a group of butchers, bakers and candlestick makers that were brought together through the efforts of a telephone boiler room, and they all put up their money for a project that none of them knew anything about!**

BESIDES, WHY SHOULD SMALL COMPANIES HAVE TO BID FOR SOMETHING THAT THEY ALREADY HAVE?

It can easily be argued, "But they don't already have it!" But, the truth is, what these small family owned companies have poured their life savings and life's work into is an ongoing, growing, business, devoted to serving the public in the locality where the business is headquartered. To survive, you must grow. And... these little companies are simply adding one antenna site at a time, as they are able to obtain the sites, and as they are able to afford the equipment to build the sites. Many of the small companies, like mine, have become debt free, and would like to keep it that way... as the ultimate hedge against financial failure. After all, financial failure of the small paging company normally means loss of service to their subscribers and the loss of family income to Mom and Pop. But, bring in geographic licensing, and the telephone boiler room operations which are going to root out every doctor, lawyer, and Indian chief with some spare money to invest, and the small companies will be "frozen" inside their existing service areas.

Then, start losing a site here and there, and it gets even worse! Most of these small communities are served with only one transmitter at one site. Lose this site, and move to the next best one that you can find, which is seven miles down the road, and you've now lost over half of your existing service area! From the new site, a directional

antenna will have to be used, aimed at the center of the old service area, and then much of the old service area will be lost forever. And... lose this new site and... well... you get the picture. After about three moves, you won't have hardly anything left under the proposed plan! So, yes, indeed, under the proposal, small companies are being asked to bid for what they already have... or at least to be able to keep it!

IN RURAL AMERICA, THE SERVICE AREAS DON'T FORM A "CLUSTER".

The NPRM points out that if a licensee does not end up becoming the licensee of the geographic area, he will still be able to easily make changes "inside his existing service area". Now, in a top-30 market like Philadelphia, this is probably true. A quick look at a major carrier's pattern of transmitters will most likely show, from the center of town, several transmitters to the north, several to the east, several to the south, and several to the west.[3/] The whole idea here is that when you look at the total area of coverage, it is a "clump".

But, let's look closer. Unless this carrier in Philadelphia has an extremely high number of transmitters, he most likely will have a few little "islands" of technically unserved territory inside his "clump" of transmitters. Under the proposed rules, this will become "no-man's land" forever. It would be impossible (and certainly impractical) for the licensee of the geographic area to come in and set up a transmitter in one of these "slivers" of unserved territory, and at the same time, the licensee of this Philadelphia system (assuming he is not also the geographic licensee) will be unable to make moves within Philadelphia which result in new service being added to these unserved "slivers".

[3/] To see how this might work, I drew Exhibit A, which shows a 22-transmitter "clump" serving a major market. Even in this drawing, only the 3 inner-most transmitters can be freely relocated.

IN FACT, IN MANY PARTS OF THE COUNTRY, THE TERRITORY SERVED LOOKS MORE LIKE A "LINE" THAN A "BOX".

Take the Rocky Mountain West. Even the "Big Boys" in Colorado have systems that form a line along the Front Range of the Rocky Mountains. True, in Denver, they may have a handful of transmitters, but the rest of their transmitters form a "line" from the Wyoming border to the New Mexico border.[4/] And... in many places... even for the "Big Boys", this line has breaks in it. Not all of the service areas overlap, and even for these large companies, it would be extremely difficult for them to finish building out their system... or replacing a lost site... when you consider that their area of service is a broken line of circles, and not a cluster of circles.

AND, DON'T FORGET... EVERY "CIRCLE" HAS ANOTHER "CONCENTRIC CIRCLE" OF "NO-MAN'S LAND" SURROUNDING IT!

If paging were like wireline telephones, it would be possible to say to "Company A", "OK, your territory ends right here, and the territory for 'Company B' starts right across the street." But it doesn't work that way with radio. If the new rules were to go into effect as written, the existing carriers would all have a concentric circle of "No-mans's land" surrounding their existing territory, and neither they, nor the geographic licensee, could ever serve it. This produces an extremely inconvenient situation to the general public. It would be one thing if they could obtain service on their pager from "Company A" in one portion of an area, and then if they travel further away, obtain their service on the same radio frequency from "Company B" further down the road. But, every time that "Company A" and "Company B" come together, there will exist a piece of "No-man's land" in which service cannot be provided by either.

[4/] Exhibit B is my drawing of this coverage, with the 6-transmitter clump being Denver, and the other transmitters serving the various markets north and south from Denver along the front ridge of the Rocky Mountains in Colorado and Wyoming. Of All these transmitters, only the innermost Denver transmitter can be relocated.

For this reason, it is extremely important that the FCC, in any new rules adopted, make provision for existing carriers to be able to expand their service boundaries beyond their existing limits. Of course, how to do this gets very tricky.

GEOGRAPHIC LICENSING SHOULD NOT BE USED OR SHOULD BE DONE ON A COUNTY-BY-COUNTY BASIS FOR THE 150 MHz AND 450 MHz PART 22 CHANNELS

As I see it, the survival of the traditional, family owned, "Mom and Pop" paging and mobile-telephone business is at stake here. Letting companies like mine survive serves the public interest. There are a lot of customers out there that simply do not enjoy doing business with a major corporation, and would very much prefer to obtain their communications services from the little family-run outfit down the street, who has taken good care of them for the past decades. And, it's only the small, locally owned and operated companies, that will bring service into America's tiny little rural towns.

Geographic licensing, although it makes sense for new entities such as PCS, simply doesn't make sense for a service that has been maturing over the past decades, and will continue in its maturity in decades to come.

But, if geographic licensing must happen, please recognize the difference between multiple entities all wanting the same geographic area so that they can continue to serve their customer base by continuing their expansion plans (many of which are already in progress and being held in "suspended animation" due to the "freeze"), and the free-wheeling, if not abusive entrepreneurs out there that only want the license so that they can make a fast buck by selling it to someone else, or extracting tribute from the existing licensees in the area. Both the existing licensees, and the public at large, will benefit by the FCC taking steps to make this game unattractive to abusive entrepreneurs.

If the FCC proceeds with geographic licensing for 150 MHz and 450 Mhz channels, it should license the 150 MHz and 450 MHz frequencies on either a site-by-site basis (as

has been done in the past), or bundle them up in a county-by-county geographic licensing basis.[5/] The public interest would not be served if these channels were auctioned by large market areas, such as MTAs, BTAs, Economic Areas, or MSAs/RSAs, like was done in cellular.

Another reason for keeping the service area small for the 150 MHz and 450 MHz channels is to solve what will become a common problem where geographic service areas border one another. There will always be people wanting to travel, say over a distance of 50 miles, between two adjacent geographic service areas. But, if every frequency in each area is operated by a different company, and they out of necessity must maintain a zone of "No-man's land" between them, then the only way for these people to get service, on this 50 mile stretch of road between geographic service areas, is to subscribe to Nation-wide paging.

But, if the "Moms and Pops" can continue to license 150 MHz and 450 MHz systems on a site-by-site or county-by-county basis, certainly some small communications business in the area will see that a number of people need service in the "No-man's land" area between the adjoining geographic service areas, and seek licensing on a common frequency within this "No-man's land" area. This will require a method of site-by-site or county-by-county (assuming they can pick up the same frequency in both adjoining counties) in order to have a continuous service area in what will be an unservable area by the big companies.

[5/] For 900 MHz, it makes more sense to use a geographic licensing approach, with an area consisting of several counties. In other words, keep the areas small for the lower frequencies, and make them larger for the higher frequencies. And... as attractive as it may sound to reduce the FCC workload by having only a few areas and a few licensees, recognize that service to the public is the bottom line, and therefore, the "Mom and Pop" service providers need to be kept alive.

THERE IS NO USEFUL PURPOSE IN ALLOWING THE GEOGRAPHIC LICENSEE TO HAVE 100% OF THE UNSERVED TERRITORY IN THE GEOGRAPHIC REGION.

To give the geographic licensee 100% of the unserved territory within a geographic region, be it 150 MHz or 450 MHz, will cause nothing but serious problems to the public. True, if the geographic licensee sees an unserved population center at one end of the geographic area, he should certainly be able to serve it as he sees fit. But if at the other end of the geographic area there is an urban area which is partially served by an existing carrier, but of no value to the geographic licensee since he can't license a transmitter anywhere near it, then the existing carrier should be able to fill out his system to serve the remainder of this area.

OK... So how do you do this? The existence of existing carriers and the grey area surrounding their authorized service areas is one good reason why geographic licensing, especially over a wide chunk of territory, is a bad idea for a service that has been around since the 1940s. But if it must be done, then someone other than the geographic licensee should be able to file applications for new facilities within the geographic area. If someone, even a new applicant that is brand new to the area with no existing facilities in the area (like a "Mom and Pop" wanting to enter the paging industry, and serve their home town) files an application within the geographic area, then the geographic licensee should have 30 days to propose a transmitter which will serve essentially the same new territory, or forever thereafter hold his peace.

This plan permits the little "Mom and Pop" companies to propose service to tiny towns, and if the holder of the geographic license doesn't think that it is worth serving that area, he can simply do nothing, and within 30 days, the new applicant will have the new service area. But more important, if an existing license who is not the geographic licensee needs to fill in a 35 mile long "hole" along a major highway, and this "hole" (being

sandwiched in between the existing licensee's existing transmitters) is of no practical value to the geographic licensee, then by default, the non-geographic licensee could obtain it.

Now, again, I think that the best answer to the 150 MHz and 450 MHz band is to simply leave it alone, and continue with site-by-site licensing... since too much time has passed, and these frequencies are so widely broken up and scattered that wide area licensing just simply does not make sense. But, for 900 MHz channels, the existing licensees do indeed need some provision for a little "breathing room" to make changes, or else they will be forever held hostage by the geographic licensee. Which brings us to the next point:

UNLESS A PROVISION IS MADE FOR SOME "BREATHING ROOM" FOR EXISTING LICENSEES, THE SINGLE BIGGEST ATTRACTION TO BECOMING A GEOGRAPHIC LICENSEE WILL BE THE ABILITY TO HOLD EXISTING LICENSEES HOSTAGE.

The economic power which geographic licensees will have over incumbents under the FCC's proposal defeats the whole idea of FCC licensing. The idea is supposed to be that an applicant obtains a license to provide service to the public, and not to use it as a "bargaining chip" with someone else. Yet, all too often, I have seen FCC applications filed for the apparent purpose of blocking the guy down the road. I have had this happen to me in the past, and it is extremely expensive, time consuming, and a real setback to getting service to the public as quickly as possible. By allowing a provision for existing licensees to expand beyond their existing interference contours, this makes a geographic licensee less attractive to an unscrupulous applicant who wants the geographic license for the primary purpose of the power and control that it holds over the existing licensees within the geographic area. Remember, the existing licensees may very well have their life savings and life's work invested... along with their life's future.

The permitted expansion area for existing licensees (the "breathing room") needs to be quite a bit different in urban areas than in rural areas, typically in the western United States. In the East, you can travel 25 miles down the road, and drive through five cities the size of Fairfax, Virginia. But in the rural West, you can easily drive about 100 miles, and not come to anything larger than Bill, Wyoming (population of about 4 if everyone comes home for dinner).

As a result, I think it would be only appropriate to permit expansion in urban areas of up to 25 miles beyond any existing interference contour, without the permission of the geographic licensee, but in rural areas, expansion up to 100 miles beyond any existing interference contour should be permitted. Furthermore, expansion beyond these 25 mile and 100 mile limits should be permitted as long as the geographic licensee does not respond within 30 days with a competitive proposal to serve essentially the same area. After all, the FCC is here to encourage service to the public, and not to protect one class of licensees against competition.

This permits the geographic licensee to "protect his turf" in totally unserved areas of his territory, while at the same time, prevents the geographic licensee from holding existing licensees hostage. Should two existing non-geographic licensees both file mutually exclusive applications each other during the 30 day window, then they would simply have to bid between them on who gets what.

WHAT ABOUT THE IDEA OF EVERYONE IN A GIVEN GEOGRAPHIC AREA GETTING TOGETHER, FORMING A CONSORTIUM, AND GOING AFTER THE GEOGRAPHIC LICENSE AS A GROUP?

Believe me, this simply won't work. Maybe it would work among a few of the large corporations, who clearly see an advantage to doing things this way, but it would never work, especially out in the West, among smaller Mom and Pop companies. Unfor-

tunately, all too often, the different paging companies in rural America on the same frequencies are "at war" with one another. Most likely, the "war" started when "Company A" filed an FCC application that was just a little too close to "Company B's" turf, and "Company B" responded by filing a mutually exclusive application. This goes on all the time out here, often resulting in neighboring companies that will go for years without speaking to one another. Besides, the "Mom and Pop" companies are extremely independent minded, and the idea of forming a "consortium" with anyone else just cuts against the grain of the way they do business. The last thing they want is to take time away from climbing towers and delivering repaired pagers to customers, to waste it on drawing up paperwork and tax forms to form a consortium.

WHAT ABOUT "FLUSHING OUT THE PIPELINE"?

Commissioner Chong, in her Statement, said:

> In crafting our decision to manage a smooth transition, I have been very mindful that we do not inadvertently hinder the ability of paging carriers to either compete or continue to expand their businesses. To this end, we have attempted to take actions that will not impede competition, growth, and innovation in the paging market during the transition. First, all non-mutually exclusive applications for paging licenses pending as of the date of this notice will be processed.

(emphasis added) I hope that Commissioner Chong's desires are indeed carried out.

Not only do existing carriers need the ability to expand without being held hostage by a geographic licensee, they certainly, as a bare minimum, need to have their pending applications processed.

But, the FCC policy at this time is to process only those applications which had made it past the 30-day period following public notice at the time for the "freeze". This is not the same thing as Commissioner Chong's desire that pending applications be processed. True, a 30 day window for petitions and mutually exclusive applications may

need to be observed, but with this, you should be able to process everything physically received prior to the "freeze".[6/]

I still think there should be a way to do this, so that sincere, legitimate, partially-complete, work-in-progress, applications can be filed, without the "sharks" having a hey-day. Here's an idea or two:

First, perhaps there should only be a three day window occurring only three days after Federal Register publication, to cut down on the time that the license mills will have to gum up the works. Paper applications would have to be filled within the three day window, with microfiche to follow, since there would be no way that the microfiche could all be done in that short a period.

Clearly announce that this window filing is only for "clean up" applications, from perhaps existing FCC licensees on the same frequencies within the same or adjoining areas, and perhaps even take it a step further and require certification and evidence that most of the work had already been done prior to the freeze.[7/] Evidence could include signed agreements to use sites, evidence of physical travel to the location (motel bills, gasoline charge slips, airline tickets, etc.), long distance or E-Mail records, or anything else showing that negotiation for the site had already been made. Perhaps a signed statement from the site owner should be required.

And, then, make it clear that someone is going to jail if they set out to attract brand new applicants via telephone boiler room calls and the like for this brief "clean up" window. Again, the only way that it could be done is with safeguards (and a serious

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[6/] I provided more information on this on pages 7-10 of my Comments on the Interim Licensing Rules, filed March 1, 1996 in this proceeding.

[7/] See pages 2-4 of the Comments on the Interim Licensing Rules.